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PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

15

Application Number

10/758,448

Filing Date

01/15/2004

First Named Inventor

McVay et al.

Art Unit

3764

Examiner Name

Amerson, L.

Attorney Docket Number

23156-151

### ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	Copy of Express Abandonment as filed in copending U.S. Application No. 10/758,447; Return Receipt Postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<b>Remarks</b>	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	Fee Attached = PTO 2038	

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Benesch, Friedlander, Coplan & Aronoff LLP		
Signature			
Printed name	Gregory S. Kolocouris		
Date	September 7, 2005	Reg. No.	47,714

### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Gregory S. Kolocouris	Date	September 7, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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SEP 1 2 2005

SEP 1 2 2005

PTO/SB/17 (12-04v2)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.

Fees prescribed by the Consolidated Appropriations Act, 2005, H.R. 4818.

# FEE TRANSMITTAL

## For FY 2005

Complete if Known

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 625.00

Application Number 10/758,448

Filing Date 01/15/2004

First Named Inventor McVay et al.

Examiner Name Amerson, L. B.

Art Unit 3764

Attorney Docket No. 23156-151

## METHOD OF PAYMENT (check all that apply)

☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):☒ Deposit Account Deposit Account Number: 02-2051 Deposit Account Name: Benesch, Friedlander

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

## FEE CALCULATION

## 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

## 2. EXCESS CLAIM FEES

## Fee Description

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Fee (\$)	Small Entity Fee (\$)
50	25
200	100
360	180

Total Claims 33 - 20 or HP = 13 x 25 = 325.00

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims 6 - 3 or HP = 3 x 100 = 300.00

HP = highest number of independent claims paid for, if greater than 3.

## 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets - 100 = Extra Sheets / 50 = Number of each additional 50 or fraction thereof Fee (\$)

Fee Paid (\$)

## 4. OTHER FEE(S)

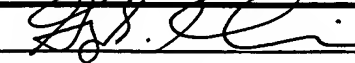
Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Additional Claims Fee

Fees Paid (\$)

625.00

## SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 47,714	Telephone (216) 363-4453
Name (Print/Type)	Gregory S. Kolocouris		Date 09/07/2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : McVay et al.  
Application No. : 10/758,448  
Filing Date : January 15, 2004  
Examiner : Amerson, L. B.  
Art Unit : 3764  
Confirmation No. : 5624  
Docket No. : 23156-151  
Title : VARIABLY CONFIGURED EXERCISE DEVICE

M.S. Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**AMENDMENT "A" AND RESPONSE TO FIRST OFFICE ACTION**

Dear Examiner:

Applicant acknowledges receipt of the first Office Action dated August 9, 2005 in connection with the above-referenced application ("subject application"). The three-month period for replying to this first Office Action expires on December 9, 2005. Accordingly, this Amendment "A" and Response is timely filed.

Please review the subject application in view of the following amendments and remarks.

09/14/2005 RMEBRAHT 00000034 10758448

01 FC:2201 300.00 OP  
02 FC:2202 325.00 OP